## Remarks

With this Amendment, Applicants have filed a Request for Continued Examination.

Claims 1-11 are pending in the application. Claims 12-15 have been cancelled. Claim 1 has been amended to reflect that the reaction conditions are changed by adding a third reagent R3, and that reagent R2 is used for the second determination of the free AT fraction. Support for these amendments can be found throughout the specification and specifically, for example, ¶¶ [0014], [0020] and [0021].

**Rejections Under 35 U.S.C. § 103**

Claims 1, 2, 4, 6, 7, and 11 stand rejected as obvious under 35 U.S.C. § 103(a) over Plattner, *et al.* (U.S. 4,219,497) in view of Furatu (EP 0 041 366), Morris, *et al.* (U.S. 4,314,987) and Akhavan-Tafti, *et al.* (U.S. 6,068,979). Applicants respectfully submit that with the foregoing amendment, the rejection has been traversed.

In previous Office Actions, the Examiner recognizes that Plattner, *et al.* does not teach conducting the measurement, in the same sample volume, of total AT-III activity in the presence of heparin and AT activity in the absence of heparin. The Examiner finds that despite Plattner, *et al.*'s failure to teach this aspect of the invention, the invention would have been obvious in light of Futura, Morris, *et al.*, and Akhavan-Tafti, *et al.* These references, however, do not render the invention obvious because they would not lead the skilled artisan to the present invention.

In the Advisory Action, the Examiner suggests that the Applicants previous arguments were a piecemeal analysis of the references. While Applicants individually identified the deficiencies in each reference, Applicants did so to highlight for the Examiner that the references would not have been combined by one of skill in art as suggested by the Examiner. Indeed, the Examiner recognizes that none of the references teach the sequential detection of the same

analyte in the same sample as presently claimed. (*see* Advisory Action). The Examiner, however, finds that this element of the claim is "tangential." Applicants respectfully disagree. The determination of the same analyte in the same reaction mixture is a unique concept that should not be so easily dismissed as the Examiner has done, especially in light of the Examiner's failure to set forth any pertinent and specification reasoning for the alleged combination of references. Applicants understand from the Advisory Action that the Examiner believes that such reasoning was set forth on page 6 of the Final Office Action. This reasoning, however, is not specific to this particular situation, but rather is a wish list for every clinical assay. Applicants respectfully submit that this reasoning is merely conclusory, and does not support a legal conclusion of obviousness.

In order to expedite prosecution, Applicants have amended claim 1 to positively recite a changing of reaction condition by adding reagent R3. Nothing in the cited references teach the changing of reaction conditions as presently claimed. Moreover, the claims have been amended to reflect that the second detection of the AT binding partner is conducted with the same reagent, D2, as used in the first detection step. Again, none of the reference teach the sequential detection of the same analyte, in the same reaction mixture, using the same reagents.

For example, Akhavan-Tafti, *et al.*, cited by the Examiner, teaches conventional methods for the sequential detection of various analytes (labeled DNA molecules) that are different from each other. The multiple detections are carried out using different detection reagents. (*See* Abstract). Furatu is cited for its teaching of essentially the same thing. Similarly, Morris, *et al.* teaches the detection of various analytes by using different detection methodologies. (*e.g.*, fluorescence (col. 3, lns. 17-20), radioactivity (col. 3, lns. 54-57), precipitation (col. 4, lns 3-8),

UV photometry (col. 4, lns. 33-35)). But Morris, *et al.* teaches nothing about detecting the same analyte in the same reaction mixture with the same label.

Moreover, nothing in any of the references teaching changing of the reaction conditions in a sample mixture in order to conduct a second detection of the same analyte using the same label. Accordingly, the combination of references does not render obvious the presently claimed invention. Therefore, Applicants respectfully request that the rejection of claims 1, 2, 4, 6, 7, 11 and 12 under 35 U.S.C. § 103 be withdrawn.

Claims 8-9 stand rejected as obvious under 35 U.S.C. § 103(a) over Plattner, *et al.* in view of Furatu, Morris, *et al.* and Akhavan-Tafti, *et al.*, and further in view of Exner (U.S. 6,051,434). Applicants respectfully disagree with the rejection because Exner does not address the lack of obviousness of claim 1 as a result of the combination of Plattner, *et al.* Furatu, Morris, *et al.* and Akhavan-Tafti as noted above. Accordingly, the combination of Plattner, *et al.* Furatu, Morris, *et al.*, Akhavan-Tafti, and Exner can not render obvious claims 8 and 9, which depend from claim 1. Therefore, Applicants request that the rejection of claims 8-9 under 35 U.S.C. § 103 be withdrawn.

Claim 10 stands rejected as obvious under 35 U.S.C. § 103(a) over Plattner, *et al.* in view of Furatu, Morris, *et al.* and Akhavan-Tafti,, and further in view of Nesheim, *et al.* (U.S. 4,219,497). Applicants respectfully disagree with the rejection because Neshiem, *et al.* does not address the failure of the combination of Plattner, *et al.*, Furatu, Morris, *et al.* and Akhavan-Tafti, and Nesheim, *et al.* to render claim 1 obvious as noted above. Accordingly, the combination of Plattner, *et al.* Furatu, Morris, *et al.*, Akhavan-Tafti, and Nesheim, *et al.* can not render obvious claim 10, which depends from claim 1. Therefore, Applicants request that the rejection of claim 10 under 35 U.S.C. § 103 be withdrawn.

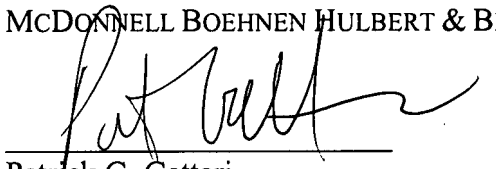
## Conclusion

There may be other reasons for patentability for independent and dependent claims, and Applicants do not waive those arguments by failing to assert those arguments here. Applicants view the foregoing reasons as sufficient to establish that the claims are nonobvious, but Applicants expressly reserve the right to make further argument regarding patentability of the claims in future proceedings.

With the above Amendments and Remarks, the Applicants respectfully submit that the application is now in a condition for allowance. If the Examiner is of the opinion that a telephone conference would expedite prosecution of the application, the Examiner is encouraged to contact Applicants' undersigned representative.

Respectfully submitted,

McDONNELL BOEHNEN HULBERT & BERGHOFF LLP



Patrick G. Gattari
Reg. No.: 39,682

300 South Wacker Drive
Chicago, Illinois 60606
tel 312 913 0001
fax 312 913 0002